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RECENT LEGAL LITERATURE

A MANUAL RELATING TO SPECIAL VERDICTS AND SPECIAL FINDINGS BY JURIES.

By George B. Clementson, of the Wisconsin Bar, St. Paul: West Publishing Co., 1905, pp. lxi, 350.

This book is a most excellent treatise upon a limited but important subject. The problem of successfully dealing with juries is a very difficult one. It has been the subject of much discussion by members of the bar. Many able lawyers and judges, after long experience with juries, have strongly advocated their total abolition in civil causes, on the ground, chiefly, that under modern methods of pleading the complicated questions of law covering the facts of an ordinary case at law cannot be effectively applied by the average jury. There is a widespread feeling that the general verdict, so far from being a guaranty of liberty, has outlived its usefulness, and has too frequently become a mere cloak, sacred only for its antiquity, to cover prejudice, ignorance or sympathy. "It comes into court unexplained and impenetrable." Trial by jury in its ordinary form is the slowest, most expensive and most cumbersome method conceivable for determining issues of fact, and one full of opportunities for the innocent commission of reversible error.

Special verdicts and special findings of fact are devices calculated to preserve the really valuable features of the jury system, while freeing it from the element of chance and accident which has brought it into disrepute. There would be no such general feeling of hostility to the jury if it were really subject, within proper limits, to the direction and guidance of the court, and if there were some practicable way of judicially ascertaining whether the jury had conscientiously found the facts and intelligently applied the law. Special verdicts and special findings of fact, as checks upon the jury and as means for aiding it in accomplishing its proper function of trying the facts, are worthy of a more careful and thorough trial than they have received. If they were better understood and more frequently made use of, they might prove sufficient to re-develop the jury into a serviceable judicial instrument.

The book under review gives a short but illuminating historical account of special verdicts, special findings, and the practice of questioning juries respecting the grounds for their verdicts. The mass of statutory matter on this subject has been admirably handled, and in no way interferes with a comprehensive discussion of general principles. The difference in theory, form and function between special verdicts and special findings are clearly presented and the practice in respect to each is fully explained. A reading of this book by any lawyer who is engaged in the trial of jury cases cannot fail to prove technically valuable and broadly suggestive. EDSON R. SUNDERLAND.

A TREATISE ON THE CONFLICT OF LAWS, or Private International Law. By Francis Wharton, LL.D. Third Edition by George H. Parmele, of the Editorial staff of the Lawyers' Co-operative Publishing Co., Rochester: Lawyers' Co-operative Publishing Co., 1905. Two volumes, pp. ccxxxiv, 1830.

This book has been before the legal profession for more than thirty years,